

REMARKS/ARGUMENTS

In response to Restriction Requirement mailed June 12, 2006, Applicants elect with traverse Group I, claims 1-18 and 27-45, drawn to a method for identifying a compound that modulates angiogenesis by contacting the compound with an Axl protein. Applicants also elect the following species with traverse: Group A, *in vitro*; Group B, chemical effect; Group C, small organic molecule; and Group D, polypeptide or fragment thereof.

Applicants have amended the claims and direct the Examiner's attention to relevant passages in the specification to support the amendments. Claims 1 and 27 are amended to recite an Axl polypeptide comprising an amino acid sequence with a specified percent identity to the Axl reference sequence, SEQ ID NO:4. New claims 53 and 54 are added and recite more specified percent identity relationships to the reference sequence. Support for these amendments is found throughout the specification, for example, at page 7, line 29-page 8, line 14 and page and page 51 of the informal sequence listing. These amendments add no new matter. Claims 1 and 27 are also amended to recite that the Axl polypeptide has kinase activity. Support for this amendment is found throughout the specification, for example, at page 6, lines 8-20. This amendment adds no new matter. Claim 19 is amended to depend from claim 1. Claim 45 is amended to depend from claim 27. Support for these amendments is found throughout the specification, for example, at page 3, lines 18-29. These amendments add no new matter. Claims 20-26 and 46-52 are cancelled.

The foregoing election is made with traverse. Applicants request that Group I, a method comprising two steps; and Group XIX, comprising the same two steps and a third step; be examined together, as all the steps of Group I are also found in Group XIX and all steps require the same protein, *i.e.*, Axl.

Applicants also assert that, at the very least, claim 1 is a genus claim linking the now dependent species claims comprising the third method step. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in

the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Groups I and XIX together (all comprising two identical steps that use the Axl polypeptide) would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Groups I and XIX be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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